

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

GIANNI S. THOMAS

Defendant.

NO. CR22-198 RSL

UNITED STATES' RESPONSE TO
DEFENDANT'S MOTION TO REVOKE
DETENTION ORDER

NOTE ON MOTION CALENDAR:
January 6, 2023

While under the watchful eye of the Department of Corrections following a domestic violence felony violation of a no contact order conviction, the defendant armed himself with firearms on multiple occasions and was arrested with distribution level amounts of fentanyl and more than \$6,000. After considering the facts of the case, information related to the defendant's history and personal characteristics, to include appearance history, warrant status, and risk to the community, Magistrate Judge Tsuchida concluded no combination of conditions could reasonably assure the defendant's appearance at future hearings and risk to community safety. The defendant remains a risk to community safety and nonappearance. Judge Tsuchida properly determined the

1 defendant should be detained. As such, the United States hereby seeks an order denying
2 Defendant's Motion to Revoke Detention.

3 I. FACTUAL AND PROCEDURAL HISTORY

4 **A. Instant Offenses**

5 On June 22, 2022, the defendant was convicted of Domestic Violence Felony
6 Violation of a Court Order, in King County Superior Court under cause number 20-1-
7 01569-1 SEA. Upon his release from prison on February 18, 2022, the defendant's
8 community custody with the Washington Department of Corrections (DOC) commenced.
9 Dkt. 1, ¶ 5.

10 May 23, 2022

11 In May 2022, Seattle Police Department (SPD) Detective Caulfield discovered a
12 music video posted on YouTube from username "STAKKTEAMGIGI." SPD and DOC
13 believe the defendant is a member of Blood Stakk Team, a criminal street gang. The
14 group has filmed videos around the 2400 block of South Kenyon Street in West Seattle
15 showing its members and associates in possession of firearms. Dkt. 1, ¶7.

16 The defendant is also a rapper, who posts music videos to video sharing websites
17 like YouTube.com. In the videos, posted by YouTube user "STAKKTEAMGIGI," the
18 defendant can be seen rapping. Previous Alcohol Tobacco and Firearms investigations
19 revealed that STAKKTEAMGIGI is the username that the defendant uses for multiple
20 social media accounts. Detective Caulfield viewed a video, which was posted May 12,
21 2022, from the STAKKTEAMGIGI YouTube account depicting the defendant holding
22 what appeared to be multiple firearms throughout the video. At one point, the defendant
23 is depicted pointing a firearm at the camera and an extended magazine is visible in the
24 frame. Detective Jones notified the defendant's assigned DOC Community Corrections
25 Specialist (CCS) and ATF Task Force Officer (TFO) John Conaty of the
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1 STAKKETEAMGIGI video. As a result, TFO Conaty determined the defendant needed
2 to be arrested for violating the conditions of his DOC supervision. *Id.*

3 On May 23, 2022, law enforcement officers from ATF, SPD, and DOC gathered
4 to surveille and coordinate the defendant's arrest. At approximately 0638 hours, ATF SA
5 Salcepuedes observed a black 2016 Mercedes GLA with Washington license plate
6 BYL7571, registered to M.H.O., parked by the defendant's residence at the corner of
7 South 13th Street and South Yakima Avenue in Tacoma, Washington. Dkt. 1, ¶8.

8 At approximately 1445 hours, the defendant's then girlfriend walked up to the
9 Mercedes and entered the front passenger seat. Seconds later, SPD surveillance units
10 observed the defendant walking towards the Mercedes. ATF SA Price observed the
11 defendant look up at the approaching arrest vehicle. The defendant continued to the
12 driver's side front door and entered the Mercedes. SA Price observed the defendant
13 through the driver's window of the Mercedes and saw the defendant making movements
14 with his arms around his waist area. SA Price then observed the defendant turn to his
15 right and lower his shoulder in the area of the passenger side back seat floorboard.
16 Immediately after making these movements, the defendant opened the car door and
17 exited the vehicle and was taken into custody by agents. Dkt. 1, ¶9.

18 SPD officers seized a Glock, Model 43X, 9mm caliber pistol from the floorboard
19 behind the front passenger seat. The Glock was loaded with a magazine loaded with
20 ammunition and had a round in the chamber. Officers also seized one box of ammunition
21 containing 9mm caliber ammunition in the front passenger door, one bag containing 9mm
22 caliber ammunition in the center console, and one drum magazine containing 9mm
23 caliber ammunition in the trunk. Drum magazines are used to contain large amounts of
24 ammunition. Dkt. 1, ¶710

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September 8, 2022

On September 8, 2022, at about 1414 hours, a Federal Way Police Department (FWPD) officer observed a black Mercedes sedan traveling northbound at 33200 Pacific Highway South, in Federal Way, King County, Washington with rear Washington license plate CER7282 hanging off the license plate bracket area at an approximate 45-degree angle dangling precariously by one screw. The Mercedes also had tinted windows on the front side windows that appeared to be darker than what is allowed by law. Dkt. 1, ¶15.

The officer conducted a traffic stop of the vehicle. The driver was identified by DOC identification and an electronic Washington Department of Licensing photo as Sharpa Gianni Thomas. The front female passenger was identified as the registered owner of the Mercedes, H.K. A computer records check through DOL on the defendant's driving status showed he was currently Suspended/Revoked 3rd Degree. Due to the defendant's status as Suspended/Revoked 3rd Degree, and neither occupant having proof of motor vehicle insurance, the officer impounded the Mercedes. Dkt. 1, ¶16.

While conducting an inventory search of the Mercedes prior to towing, the officer observed an unholstered semi-automatic pistol located in the center unlocked console of the Mercedes. The officer immediately stopped the inventory and coordinated an investigative impound to the FWPD impound lot. On September 8, 2022, FWPD officers obtained a Federal Way Municipal Court search warrant for the Mercedes for evidence of the Washington State crime of Unlawful Possession of a Firearm as the defendant is a convicted felon. Dkt. 1, ¶17.

On September 8, 2022, the search warrant was executed on the Mercedes and the following items were seized:

- A Taurus, 9mm caliber pistol, with serial number ACD813911, in the center console with a loaded magazine next to it. The pistol did not have a magazine in the magazine well of the pistol and no round was chambered.

1 • A Glock, Model 26, 9mm caliber pistol, with serial number BGXL615. The
2 pistol was resting just under the back of the front passenger seat, with the grip facing
3 towards the driver’s side. The pistol was loaded with an extended magazine with one
4 round in the chamber. Dkt. 1, ¶18.

5 The Mercedes Bluetooth display showed that an orange phone connected to it said
6 “Gigi’s phone” on the screen. DOC CCS Conaty confirmed that the moniker “Gigi” is
7 associated with the defendant. Officers later contacted H.K. at the phone number she
8 provided and advised her that her vehicle could be picked up. H.K. stated she didn't know
9 about the guns in her vehicle. Dkt. 1, ¶19.

10 On November 9, 2022, the grand jury returned an indictment charging the
11 defendant with two counts of Unlawful Possession of Firearms in violation of Title 18,
12 United States Code, Section 922(g)(1), one count of Possession of a Controlled Substance
13 with Intent to Distribute in violation of Title 21, United States Code, Sections 841(a)(1)
14 and 841(b)(1)(C), and one count of Possession of a Firearm in Furtherance of a Drug
15 Trafficking Crime in violation of Title 18, United States Code, Section 924(c)(1)(A)(i).
16 Dkt. 17. Trial is scheduled for February 27, 2023. Dkt. 26.

17 **B. Other Pending Criminal Matters**

18 The defendant is pending trial on charges of domestic violence no contact order
19 violation and obstructing law enforcement in Tukwila Municipal Court stemming from a
20 November 22, 2019, incident. *See* Second Supplemental Pretrial Services Report at 5.

21 **C. The Detention Hearing**

22 Magistrate Judge Tsuchida detained the defendant following his initial appearance
23 on November 1, 2022, after determining no conditions would reasonably assure the
24 defendant’s appearance as required or reasonably assure the safety of any other person
25 and the community. Dkt. 14. On November 1, 2022, the defendant sought release and
26 was again denied due to failure to appear and community safety concerns. Dkt. 28. The
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1 defendant seeks to have Judge Tsuchida’s well-reasoned findings set aside. The Court
2 should decline to do so.

3 II. LEGAL STANDARD

4 Title 18, United States Code, Section 3145(b) permits the defendant to seek review
5 of a detention order. If a review is undertaken, the district court must conduct a *de novo*
6 review of the detention order, and it need not give deference to the factual findings or the
7 ultimate conclusion of the Magistrate Judge. *See United States v. Koenig*, 912 F.2d 1990,
8 1191-92 (9th Cir. 1990). However, the Ninth Circuit has made clear that the precise
9 nature of the review in each case is left to the sound discretion of the district court. *Id.*
10 (“Clearly, the district court is not required to start over in every case, and proceed as if
11 the magistrate’s decision and findings did not exist.”). Moreover, the decision as to
12 whether to hold oral argument is left to the district court’s discretion. *Id.* (“If the
13 performance of that function makes it necessary or desirable for the district judge to hold
14 additional evidentiary hearings, it may do so. . .”).

15 The key question in the detention analysis in this case is whether any condition or
16 combination of conditions will reasonably assure the appearance of the defendant as
17 required, and the safety of any other person and the community. 18 U.S.C. § 3142(f).
18 The standards of proof differ with respect to the “risk of flight” and “dangerousness”
19 prongs of the statute. A detention order based on the defendant’s risk of flight ordinarily
20 must be supported by only a preponderance of the evidence. *United States v. Motamedi*,
21 767 F.2d 1403, 1406 (9th Cir. 1985). A detention order based on the defendant’s
22 dangerousness generally must be supported by clear and convincing evidence. 18
23 U.S.C. § 3142(f).

24 The Court must evaluate several enumerated statutory factors to determine
25 “whether there are conditions of release that will reasonably assure the appearance of the
26 person as required and the safety of any other person and the community. . .” 18 U.S.C. §
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1 3142(g). These factors include:

2 (1) the nature and circumstances of the offense charged . . . ;

3 (2) the weight of the evidence against the person;

4 (3) the history and characteristics of the person, including—

5 (A) the person’s character, physical and mental condition, family ties,
6 employment, financial resources, length of residence in the community, community ties,
7 past conduct, history relating to drug or alcohol abuse, criminal history, and record
8 concerning appearance at court proceedings; and

9 (B) whether, at the time of the current offense or arrest, the person was
10 on probation, on parole, or on other release pending trial, sentencing, appeal, or
11 completion of sentence for an offense under Federal, State, or local law; and

12 (4) the nature and seriousness of the danger to any person or the community that
13 would be posed by the person’s release. *Id.*

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15 **III. ARGUMENT**

16 As Judge Tsuchida correctly concluded, the factors here weigh in favor of detention.

17 ***A. Nature and Circumstances of the Offense***

18 The instant offenses are incredibly serious and carry significant sanctions.
19 Possession of a Firearm in Furtherance of Drug Trafficking charges allow the Court to
20 presume detention as probable cause to believe defendant committed a violation of 18
21 U.S.C. 924(c) has been found. 18 U.S.C. 3142(e) . While on community custody with
22 the DOC for failing to abide by *court ordered* no contact with a former significant other,
23 the defendant twice armed himself with firearms and peddled fentanyl.

24 According to CCS Conaty, the defendant was suspected of multiple shootings prior
25 to supervision and the defendant fled the area in a vehicle at a high rate of speed during
26 one DOC arrest attempt to which the defendant later admitted to possessing a firearm
27 “that day.” *See* Second Supplemental Pretrial Services Report at 5. When DOC

1 subsequently searched the defendant's shared residence with his grandmother, multiple
2 firearm magazines were located. *Id.* During DOC supervision, a warrant had to be
3 issued for the defendant and his conduct resulted in his return to custody on two separate
4 occasions. *Id.* The nature and circumstances of the charged offenses warrant detention
5 pending trial.

6 ***B. The Weight of the Evidence Against the Person***

7 The evidence against the defendant is considerable. The government possesses video
8 depicting the defendant in possession of firearms in May 2022. The defendant was arrested
9 with a firearm on May 23, 2022. The defendant was again contacted and found to be in
10 possession of two additional firearms, fentanyl, and a large amount of cash in September
11 2022.

12 ***C. History and Characteristics of the Person***

13 The defendant's history and characteristics, when considered in their totality,
14 weigh in favor of his continued detention. While the defendant may have ties to the
15 community, numerous other data points in his history show he is still a considerable risk
16 of nonappearance. First, the defendant has a considerable and recent warrant and failure
17 to appear record. The defendant has warranted on local criminal matters seven times since
18 2018. *Id.* at 4-5.

19 Second, the defendant's history of attempting to evade apprehension evidences his
20 risk of flight. In 2017, the defendant was convicted of Robbery in the Second Degree.
21 When officers traced the defendant back to his residence and knocked on the door, the
22 defendant ran out the back door and had to be apprehended on foot. *See* Exhibit 1 (2017-
23 2759 Certification for Determination of Probable Cause and Judgment and Sentence 17-1-
24 03870-5 KNT). While on DOC community custody in 2020, the defendant brutally
25 assaulted his ex-girlfriend. When the victim's sister attempted to call 911, the defendant
26 seized the cellphone and fled the scene prior to the arrival of law enforcement. *See* Exhibit
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1 2 (2020-0097 Certification for Determination of Probable Cause and 20-1-01569-1 SEA
2 Judgment and Sentence).

3 Third, he has arrests and convictions for repeating failing to follow court ordered no
4 contact. *See* Second Supplemental Pretrial Services Report at 4- 5. The very nature of this
5 kind of offense demonstrates the defendant's unwillingness and or inability to follow court
6 conditions. Further, convictions of this sort, when coupled his failure to appear history
7 and demonstrated willingness to evade DOC, reasonably gives rise to concern that he will
8 fail to follow through with court directives. Fourth, Judge Tsuchida twice noted a history
9 of noncompliance while under supervision. Dkt. 32.1 at 2 16, ln. 11-20 and 32.2 at 23,
10 ln. 1-6. Finally, the defendant has known substance abuse issues. When considered in
11 the totality, these factors show that the defendant still poses a risk of nonappearance.

12 ***D. Danger to the Community if Released***

13 The defendant also poses a danger to the community if released. The defendant is
14 presently charged with several counts of unlawful possession of firearms, possession of
15 fentanyl with intent to distribute, and possessing a firearm in furtherance of drug
16 trafficking. His criminal history includes robbery, assaults, unlawful possession of
17 firearm(s), and domestic violence no contact order violations. After his release from
18 DOC in February of 2022, the defendant armed himself as evidenced by the fact that law
19 enforcement viewed videos of the defendant displaying firearms in music videos posted
20 to the internet in May 2022. And on May 23, 2022, officers recovered a loaded firearm
21 and a high capacity drum magazine during the defendant's arrest.

22 On September 8, 2022, the defendant was stopped driving a car in Federal Way.
23 Law enforcement ultimately recovered another two firearms, two separately packaged
24 containers of fentanyl pills, and a large amount of cash from the car the defendant was
25 driving. The Taurus 9mm caliber piston recovered from the center console of the car had
26 a loaded magazine laying next to it. The loaded Glock 9mm caliber pistol with an
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1 extended magazine was recovered just under the back of the front passenger seat with the
2 grip facing towards the driver's side. Notably, this relatively unique appearing firearm
3 matches the one displayed by the defendant in the May 2022 music videos. This history
4 shows a pattern of engaging in violence. The charged incidents, when coupled with the
5 fact that loaded handguns were twice recovered from vehicles associated with the
6 defendant, establishes that he is a danger to the community if he is released.

7 Finally, Judge Tsuchida considered the defendant's serious criminal history starting
8 at the time the defendant became an adult, coupled with his continued law violations while
9 on supervision as a basis to detain the defendant pending trial. Dkt. 32.1 at 16, ln. 5-20.
10 Judge Tsuchida's reasoned and repeated denials of release should be maintained.

11 E. CONCLUSION

12 For the foregoing reasons, the Court should deny the motion to reopen detention.

13 DATED this 3rd day of January, 2023.

14 Respectfully submitted,

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